BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Petition for Declaratory Ruling and Rulemaking Regarding IP-Enabled Dial-Around Calls from Payphones	)))	WC Docket No. 05-176

RBOC PAYPHONE COALITION'S REPLY COMMENTS IN SUPPORT OF APCC'S PETITION FOR DECLARATORY RULING AND IN OPPOSITION TO ITS PETITION FOR RULEMAKING

The RBOC Payphone Coalition (the "Coalition")[1] files these reply comments to respond to comments filed by iBasis, Sprint, and Qwest.

The Coalition agrees with Qwest that the Commission should not undertake any rulemaking proceeding to address the treatment of IP-enabled payphones. *See* Qwest Comments at 1-2. Indeed, no commenting party supports APCC's petition for rulemaking on this issue, and the Commission should take no further action on that aspect of APCC's petition at this time.

With respect to APCC's request for declaratory ruling, the Coalition agrees with Sprint (*see* Comments at 10-11) that, in circumstances where an IP-based provider completes a payphone-originated call, that provider should be deemed a completing carrier for purposes of the Commission's payphone compensation rules. But it is unnecessary and inappropriate for the Commission to address here the question whether VoIP providers are common carriers subject to Title II or, if they

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[1] The RBOC Payphone Coalition includes the payphone operations of the Verizon telephone companies and SBC Communications Inc.

are, whether they should be subject to the full panoply of Title II regulations. As the Coalition explained in its opening comments (at 2-3), the fair compensation requirement of Section 276 does not purport to regulate any particular class of communication service provider; rather, it requires the Commission to adopt regulations to ensure that payphone service providers are fairly compensated for all calls originated from their payphones. *See* 47 U.S.C. § 276(b)(1)(A). Thus, the compensation requirement arises from the use of a payphone to provide a communications service; nothing about the Commission's adoption of compensation obligations turns on whether the communications service provider is otherwise subject to regulation under Title II. If an entity is using 800 numbers to provide communications services, and if it is completing calls originated from payphones, it should be subject to the compensation obligation of section 64.1300. The Commission can and should so hold without addressing any broader issues.

By the same token, iBasis's argument that it is not a "common carrier" under the Commission's rules (*see* Comments at 3) is beside the point and unnecessary for the Commission to address. iBasis concedes that it can and does comply with the obligations imposed on completing carriers under section 64.1300; it presumably does not do so out of a sense of generosity but in recognition of the fact that it falls within the rationale of the FCC's *Payphone Audit Order*.[2] That conclusion is right:

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[2] *See* Report and Order, *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 18 FCC Rcd 19975 (2003) ("*Payphone Audit Order*"). Given that no IP-based provider has stated an intention *not* to comply with its compensation obligations under section 64.1300, the

a communications service provider that chooses to utilize payphones in the delivery of service to its customer must compensate the payphone owner.[3]

Commission may wish to exercise its discretion to leave APCC's petition unaddressed until there is a more concrete controversy.

[3] iBasis's claims that there are technical obstacles to compliance (*see* Comments at 3-4) – undocumented as they are – in all events provide no basis for it to ignore its obligations. If iBasis needs to make contractual arrangements with the other service providers with which it does business to ensure that it complies with its payment obligations, then it should do so.

Respectfully submitted,

___/s/ Aaron M. Panner____________

AARON M. PANNER
KELLOGG, HUBER, HANSEN,
TODD, EVANS & FIGEL, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
(202) 326-7900

Counsel for the RBOC Payphone Coalition

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